

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**EMERSON ELECTRIC CO., et al.,**

**PLAINTIFFS,**

**v.**

**LE CARBONE LORRAINE, S.A., et al.,**

**DEFENDANTS**

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**Case No. 05-CV-6042 (JBS)**

**MOTION FOR ISSUANCE OF  
REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE**

Pursuant to Federal Rule of Civil Procedure 28(b), Plaintiffs in the above-captioned matter hereby move this Court to issue a Request for International Judicial Assistance to the appropriate judicial authority in the United Kingdom for purposes of obtaining necessary evidence from Robin D. Emerson (“Mr. Emerson”), a citizen of the United Kingdom. A proposed Request for International Judicial Assistance is attached hereto.

As grounds for this Motion, Plaintiffs state as follows:

1. Mr. Emerson was employed by Morganite Electrical Carbon Ltd., a U.K. subsidiary of The Morgan Crucible Company PLC (“Morgan Crucible”). While acting as an agent of Morgan Crucible, Mr. Emerson, along with representatives of Defendants, directly participated in an illegal cartel to fix the prices of and allocated markets and customers for Electrical Carbon Products sold in the United States, as evidenced by:

- a. Mr. Emerson’s participation in at least ten known cartel meetings that dealt specifically with fixing prices, allocating customers and markets, and otherwise reducing competition for Electrical Carbon Products sold in the United States. Specifically:

- i. a meeting with representatives from Carbone on September 20, 1995 in Paris, France;
  - ii. a meeting with representatives from Carbone on January 12, 1996 in Windsor, England;
  - iii. a meeting with representatives from Carbone on April 23, 1996 in Paris, France;
  - iv. a meeting with representatives from Carbone and Schunk on October 24, 1996 in Toronto, Canada;
  - v. a meeting with representatives from Carbone and Schunk on either February 5 or February 6, 1997 in Mexico City, Mexico;
  - vi. a meeting with representatives from Carbone, Schunk, and Hoffmann on June 5, 1997 in Slough, England;
  - vii. a meeting with representatives from Carbone on November 25, 1997 in Paris, France;
  - viii. a meeting with representatives from Carbone, Schunk, and Hoffmann on January 27, 1998 in Mexico City, Mexico;
  - ix. a meeting with representatives from Carbone, Schunk, and Hoffmann on September 18, 1998 in Frankfurt, Germany; and
  - x. a meeting with representatives from Carbone on October 16, 1998 in Brussels, Belgium.
- b. Mr. Emerson's December 5, 2003 guilty plea admitting to destroying records in Morgan Crucible's business files and concealing documents from the U.S.

Department of Justice relating to the company's price-fixing agreements in the Electrical Carbon Products industry.

2. At trial, Plaintiffs will be required to prove that they suffered injury to their businesses because of Defendants' knowing participation in an illegal price-fixing cartel in the Electrical Carbon Products industry. As an active participant in the cartel involving Defendants in the United States and elsewhere, Mr. Emerson possesses knowledge, information, and documents necessary for Plaintiffs to make that showing.

3. The United Kingdom is a signatory to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial matters (the "Hague Evidence Convention").

4. The attached Request for International Judicial Assistance was drafted in conformance with the Hague Evidence Convention.

5. Foreign Judicial assistance is necessary as Mr. Emerson is no longer employed by Morgan Crucible and currently resides in the United Kingdom.

6. Pursuant to Federal Rule of Civil Procedure 45(b)(3) and 28 U.S.C. § 1783, in order for Plaintiffs to depose and subpoena documents from Mr. Emerson, this Court must request international judicial assistance from the judicial authorities in the United Kingdom.

May 29, 2008

Respectfully submitted,

On behalf of Plaintiffs

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of Plaintiffs' Motion for Issuance of Request for International Judicial Assistance to be served on counsel listed below via first-class mail:

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DATE: May 29, 2008

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/s/ Matthew J. McBurney  
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